

BOARD OF APPEALS CASE NO. 4939

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BEFORE THE

APPLICANT: Kelley M. Crouse

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ZONING HEARING EXAMINER

REQUEST: Variance to construct an addition within the required rear yard setback in an R2 District; 1302 Beckett Court, Bel Air

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 6/23/99 & 6/30/99

HEARING DATE: August 18, 1999

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Record: 6/25/99 & 7/2/99

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Kelley Crouse, appeared before the Hearing Examiner requesting a variance to Section 267-36(B), Table V, of the Harford County Code, to construct an addition within the required 35 foot rear yard setback. The Applicant is proposing a 23 foot rear yard setback.

The subject parcel is located at 1302 Beckett Court in the Third Election District. The parcel is identified as Parcel No. 644, in Grid 4-D, on Tax Map 41. The parcel is zoned R2/COS and contains .296 acres, m/l.

Ms. Kelley Crouse appeared and testified that the subject parcel is improved by a single-family dwelling with an attached two-car garage. The Applicant said that she is requesting a variance to reduce the rear yard setback to 23 feet in order to construct a sun room to the rear of the dwelling. Ms. Crouse testified that she feels the property is unique because it is a corner lot at Econ Drive and Beckett Court. Ms. Kelley said that if the variance is approved, she would maintain a 23 foot rear yard setback and that only the northeast corner of the proposed sun room would be within the setback. Ms. Crouse said she did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Mr. Guy Richardson appeared and testified that he is a handyman employed by Crouse Construction Company. Mr. Richardson said that the addition will be a one-story sun room and that he did not feel the addition would have an adverse impact on the neighborhood.

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Mr. Anthony S. McClune, Manager, Division of Land Use Management, appeared and testified that the subject property is a corner lot and subject to two front yard setbacks. He went on to testify that the lot contains only .296 acres and, coupled with the small size of the lot and the two front yard setbacks, there is minimal usable area on the subject property for additions and/or accessory structures. Mr. McClune went on to testify that the dwelling on the parcel was constructed on an angle, thus further limiting the usable area to the rear of the dwelling. Mr. McClune said that the Staff has reviewed the application and is recommending conditional approval of the Applicant's request.

Ms. Rosina Cascio appeared and testified that she resides at 1217 Bancroft Court and that her property adjoins the subject parcel. Ms. Cascio said she felt that if the variance was approved, the addition would be too close to her home and detract from the home.

Mr. Paul Contrino, who resides at 1215 Bancroft Court, testified that his property also adjoins the Applicant's parcel. Mr. Contrino said that he agreed that the Applicant's parcel is unique and that there is little room for construction, but that he felt approval of the variance would have an adverse effect on the community.

CONCLUSION:

The Applicant is requesting a variance to Section 267-36(B), Table V, of the Harford County Code, to construct an addition within the required 35 foot rear yard setback in an R2 District. The Applicant is proposing a 23 foot rear yard setback.

The variance process is a two-step sequential process:

1. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is, in and of itself, unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to impact disproportionately upon the property. If this finding cannot be made, the process stops and the variance must be denied. If, however, the first step results in a supportive finding of uniqueness or unusualness, then the second step in the process is taken.

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2. The second step is a demonstration whether unreasonable hardship (or practical difficulty) results from the disproportionate impact of the ordinance caused by the property's uniqueness exist. Cromwell v. Ward, 102 Md. App. 691 (1995).

The testimony of the Applicant was that she felt her property was unique because it is a corner lot, the result of which requires a front yard setback of 35 feet from both Beckett Court and Econ Drive. Mr. Anthony McClune, Manager, Division of Land Use Management, corroborated the Applicant's testimony, and further testified that in addition to complying with two front yard setbacks, the lot contains only .296 acres and the existing dwelling is constructed at an angle, further limiting the usable area on the parcel.

Two protestants appeared, one of whom said he agreed that the property is unique and that there is little room for construction on the parcel.

No evidence whatsoever has been introduced that the subject parcel is not unique. The Applicant, the Manager of the Division of Land Use Management of the Department of Planning and Zoning and one of the protestants all agreed that the property was unique. The Hearing Examiner agrees that the property is unique due to the requirement that the Applicant must comply with two front yard setbacks and the unusual shape of the parcel.

Having determined that the Applicant has met the first of the two steps as required by Cromwell, it must be determined whether an unreasonable hardship or practical difficulty would result by denial of the requested variance. Denial of the variance will cause practical difficulty because the Applicant will be unable to construct the sun room addition in the desired area. Were it not for the two front yard setbacks, the variance would not be necessary and the Applicant would be issued a permit to construct the addition without the need for a variance.

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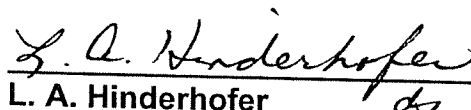
Two adjoining property owners did testify in opposition to the request, but neither of them testified to the lack of uniqueness of the property and, as a matter of fact, one of the area residents testified that the property was unique. The area residents seemed more concern about the visual impact of the reduction. This concern can be remedied by requiring the Applicant to implement visual screening between the subject parcel and the properties owned by the protestants.

Therefore, it is the finding of the Hearing Examiner that the subject parcel is unique and, further, that approval of the variance will not be substantially detrimental to adjacent properties.

The variance shall be subject to the following conditions:

1. That the Applicant obtain all necessary permits and inspections for the addition.
2. That the Applicant prepare and submit, along with the request for a building permit, a plan of screening to the Department of Planning and Zoning for their approval.
3. That the Applicant maintain a 23 foot rear yard setback.

Date SEPTEMBER 7, 1999



L. A. Hinderhofer
Zoning Hearing Examiner